THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :25639 of 2007

DATED:03-12-2007

BETWEEN:
Gnana Vatika Education Society,
Rep., by its Secretary-cum-Correspondent,
Smt.T.Sunitha Singh,
Vengalraonagar,
Hyderabad.

..... PETITIONER

AND

The Government of A.P.,
Rep., by its Secretary,
Revenue,
Secretariat,
Saifabad,
Hyderabad & 5 others.

.....RESPONDENTS

_
_
_
_
_

ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Revenue appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the 4th respondent authority in issuing the impugned proceedings No.C/649/2006, dated 02-11-2007, without issuing prior notice to the petitioner; and the action of the 6th respondent in conducting the survey and demarcating the lands situated in Sy.Nos.20 & 28 without issuing a prior notice to the petitioner, as illegal, and arbitrary.

3. It is the case of the petitioner that she is the owner of an extent of Ac.1.34 guntas in Sy.Nos.24 to 27 situated at Miyapur village and the said extent is within the boundaries of the Sy.Nos.24 to 27, but they have not encroached upon any extent of the Government land in Sy.No.28 of Miyapur village. It is stated that in an earlier occasion when therespondents threatened to demolish the compound wall of the petitioner covering the land of an extent of Ac.1.34 guntas in Sy.Nos.24 to 27 including the structures, petitioner filed W.P.No.20496 of 2001 before this Court, and this Court by order, dated 04-10-2001, disposed of the same observing that if the compound wall is around the land of the petitioner admeasuring
Ac.1.34 guntas in Sy.Nos.24 to 27 respondents cannot demolish

the same, but the petitioner is not entitled to encroach upon any portion of the neighbouring survey number belonging to the Government, and accordingly it was directed not to demolish the compound wall around the petitioner's land in Sy.Nos.24 to 27 and at the same time, respondents are at liberty to prevent the petitioner from making any construction in Sy.No.28 of Miyapur village which belongs to the Government. Thereafter, on the same allegation that the petitioner has encroached an extent of Ac.1.30 guntas in Sy.No.28 of the Government land situated at Miyapur village, on a report submitted by the Revenue Inspector, Serilingampalli vide his report, dated 28-06-2006, a notice of encroachment was given under Section 7 of the Land Encroachment Act,1905 (for brevity, 'the Act') in proceedings No.B/649/2006, dated
07-07-2006, for which an explanation has been submitted stating that the petitioner is the owner of Ac.1.34 guntas in Sy.Nos.24 to 27 of Miyapur village, and this Court disposed of the earlier Writ Petition by order, dated 04-10-2001, as stated above and after submitting explanation it is stated that the matter was referred to the Assistant Director of Survey & Land Records who has demarcated the lands in Sy.No.20 and 28 of Miyapur village and fixed the boundaries duly showing the encroachments in the said lands and submitted a location sketch vide proceedings in File No.A9/1919/2006. It is further stated that thereupon another notice under Section 7 of the Act has been served on the petitioner for which no reply is said to have been filed.

4. Learned counsel appearing for the petitioner submits that no fresh show cause notice has been served on the petitioner under Section 7 of the Act after the so-called report said to have been submitted by the Assistant Director of Survey

& Land Records. It is stated that even the Assistant Director of Survey & Land Records has not issued any notice of survey while surveying the lands of the Government in Sy.Nos.20 and 28 of Miyapur village.

5. I am not inclined to appreciate the aforesaid contentions as admittedly the said impugned order is appealable under Section 10 of the Act before the Revenue Divisional Officer. It is always open for the petitioner to raise all the contentions before the appellate authority.

6. Having regard to the facts and circumstances, Writ Petition is disposed of permitting the petitioner to file an appeal before the Revenue Divisional Officer, Chevella Division, Rangareddy District within ten days from today and if any such appeal is filed, the appellate authority may consider and dispose of the same. Pending disposal of the appeal, filed if any, *status quo,* obtaining as on today, with regard to possession shall be maintained. There shall be no order as to costs.

_____

V.ESWARAIAH,J

03rd December, 2007.

Note:

Issue operative portion of
the order by wire at party's costs.

B/o
Tsy